

Revision to the Pot Creek Memorandum of Understanding

**Minutes of November 23, 2004 Meeting
Held in Vernal, Utah**

Present for Utah

Lee Sim, Assistant State Engineer
L. Ward Wagstaff, Assistant Attorney General
Bob Leake, Area Engineer
Andrew Dutson, Engineer

Present for Colorado

Ken Knox, Assistant State Engineer
Peter Ampe, Assistant Attorney General
Bob Plaska, Division Engineer
Erin Light, Engineer

A discussion of the accounting forms that had been distributed prior to the meeting was held. It was decided that the forms should be simplified and limited to four separate forms. Those forms are:

1. Storage Summary Form—This form will list the major reservoir storage rights by priority for each reservoir. This form will be used to determine how much water was stored in each reservoir over the winter for each priority.
2. Reservoir Form—This form will be used to track information in a specific reservoir over the course of the year. Information will include date of measurement, inflow, outflow, surface elevation, and storage volume. A separate form will be maintained for each priority in each reservoir.
3. Ditch Form—This form will be used to track diversion information for each ditch being administered. Information will include date of observation, and observed diversion rate. A separate form will be maintained for storage water being diverted and direct flow water.
4. Natural Flow Calculation Form—This form will be used to calculate the natural flow of Pot Creek available for distribution to the direct flow right based on their priorities.

These forms will be included in the appendices of the Operation Plan.

The Combined Administration List was reviewed. A question was raised about including the right for Lower Reservoir Diversion in Utah, and three rights on Dry Creek, a tributary of Pot Creek in Colorado. It was decided to leave all of these on the list, even though they may not be administered. The Combined Administration List had no further changes. A description of the rights that were excluded from the list will be inserted at the beginning of the list. This list will be appended to both the Revised Memorandum of Understanding (MOU) and the Operations Manual.

The draft of the Operations Manual was reviewed. The language in the accounting section was changed to be consistent with the simplified forms that had been agreed to earlier in the meeting. There were a few minor changes in language dealing with references to the States. It was agreed that all dates contained in the various documents and appendices will reference the date the MOU is signed by the States. It was agreed to delete the area/capacity tables for the reservoirs from the appendices to the Operation Plan. A line diagram showing the major structures on Pot Creek that are subject to administration will be included in the Operations Manual.

The Draft MOU was reviewed. There were some minor language changes, and it was decided to only have the State Engineer from each state on the Signature page. This may change at a later date. A discussion was held over the meaning of the language in numbered paragraph 2 in the Recital section of the MOU. Utah asked for clarification of the intent of the language in this paragraph. Colorado and Utah understood the language of the second sentence as requiring both Utah and Colorado to make and enforce such rules or regulations as may be necessary to meet the terms of the MOU. Colorado stated it understood the language of the third sentence to require that, if at anytime the terms of MOU itself and/or any rules or regulations Utah has enacted are inadequate for Utah to meet its obligations under the MOU, Utah shall take such necessary and timely legal actions immediately to meet its obligations under the MOU. Some minor changes were made to this sentence.

A schedule of remaining tasks was agreed to; those included:

1. December 3, 2004—Colorado will send out the revised MOU, Operation Manual, Combined Administration List and Accounting Form for review. Redlined copies of the MOU and Operations Manual will also be sent.
2. December 8, 2004—Last day to exchange comments/corrections
3. December 9, 2004—Telephone Conference to discuss and resolve any comments and/or correction to the documents. Utah will arrange the teleconference.
4. December 10, 2004—Submit corrected drafts to the State Engineers for their review.
5. Mid-January—Submit approved drafts to the Pot Creek water users.

The next scheduled meeting of the Pot Creek water users is on February 2, 2005. If the revised MOU cannot be distributed to the users prior to this date, it may be possible to reschedule the meeting for later in the month of February.